
By: **Senator Garagiola**

Introduced and read first time: March 8, 2004

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Assault Weapon User Fee**

3 FOR the purpose of imposing a tax on the sale of certain assault weapons in the State;
4 establishing the rate of the assault weapon tax; altering the definition of "sales
5 tax" under the tax laws to include the assault weapon tax under the
6 administration of the sales tax; providing that certain credits and exemptions do
7 not apply to the assault weapon tax; exempting certain sales from the assault
8 weapon tax; providing certain persons a certain collection expense credit for
9 timely filing of an assault weapon tax return; requiring assault weapon dealers
10 to file certain assault weapon tax returns to include certain information;
11 defining certain terms; requiring the Secretary of State Police to submit a
12 certain report; and generally relating to a tax on the sale or use of certain
13 assault weapons in the State.

14 BY repealing and reenacting, with amendments,
15 Article - Tax - General
16 Section 1-101(s)
17 Annotated Code of Maryland
18 (1997 Replacement Volume and 2003 Supplement)

19 BY repealing and reenacting, without amendments,
20 Article - Tax - General
21 Section 11-101(a), (f), (h), and (l)
22 Annotated Code of Maryland
23 (1997 Replacement Volume and 2003 Supplement)

24 BY adding to
25 Article - Tax - General
26 Section 11-1B-01 through 11-1B-05, inclusive, to be under the new subtitle
27 "Subtitle 1B. Assault Weapon Tax"; 11-501(c) and 11-502(d)
28 Annotated Code of Maryland
29 (1997 Replacement Volume and 2003 Supplement)

1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article - Tax - General**

4 1-101.

5 (s) (1) "Sales and use tax" means the tax imposed under Title 11 of this
6 article.

7 (2) "Sales and use tax" includes:

8 (I) the tax imposed on the use of certain electricity under §
9 11-1A-01 of this article; AND

10 (II) THE ASSAULT WEAPON TAX IMPOSED UNDER TITLE 11,
11 SUBTITLE 1B OF THIS ARTICLE.

12 11-101.

13 (a) In this title the following words have the meanings indicated.

14 (f) (1) "Retail sale" means the sale of:

15 (i) tangible personal property; or

16 (ii) a taxable service.

17 (2) "Retail sale" includes:

18 (i) a sale of tangible personal property for use or resale in the form
19 of real estate by a builder, contractor, or landowner; and

20 (ii) except as provided in paragraph (3)(i) of this subsection, use of
21 tangible personal property as facilities, tools, tooling, machinery, or equipment,
22 including dies, molds, and patterns, even if the buyer intends to transfer title to the
23 property before or after that use.

24 (3) "Retail sale" does not include:

25 (i) a transfer of title to tangible personal property after its use as
26 facilities, tools, tooling, machinery, or equipment, including dies, molds, and patterns,
27 if:

28 1. at the time of purchase, the buyer is obligated, under the
29 terms of a written contract, to make the transfer; and

30 2. the transfer is made for the same or greater consideration
31 to the person for whom the buyer manufactures goods or performs work;

32 (ii) a sale of tangible personal property if the buyer intends to:

1 11-1B-02.

2 IN ADDITION TO THE TAX IMPOSED UNDER § 11-102 OF THIS TITLE, A TAX IS
3 IMPOSED ON:

4 (1) A RETAIL SALE OF AN ASSAULT WEAPON IN THE STATE; AND

5 (2) A USE, AS DEFINED IN § 11-101(L) OF THIS TITLE, OF AN ASSAULT
6 WEAPON IN THE STATE.

7 11-1B-03.

8 (A) A REBUTTABLE PRESUMPTION EXISTS THAT ANY SALE OF AN ASSAULT
9 WEAPON IN THE STATE IS SUBJECT TO THE ASSAULT WEAPON TAX IMPOSED UNDER
10 THIS SUBTITLE.

11 (B) THE PERSON REQUIRED TO PAY THE ASSAULT WEAPON TAX HAS THE
12 BURDEN OF PROVING THAT A SALE OF AN ASSAULT WEAPON IN THE STATE IS NOT
13 SUBJECT TO THE ASSAULT WEAPON TAX.

14 (C) (1) THE EXEMPTIONS UNDER SUBTITLE 2 OF THIS TITLE DO NOT APPLY
15 TO THE ASSAULT WEAPON TAX.

16 (2) THE ASSAULT WEAPON TAX DOES NOT APPLY TO A SALE OF AN
17 ASSAULT WEAPON TO A POLICE FORCE OR OTHER AGENCY OF THE UNITED STATES,
18 ANY STATE, OR A POLITICAL SUBDIVISION OF ANY STATE.

19 (3) IF A PERSON WHO BUYS AN ASSAULT WEAPON IN A RETAIL SALE
20 PAYS THE ASSAULT WEAPON TAX WHEN THE RETAIL SALE IS MADE OR WHEN THE
21 PERSON FIRST USES THE ASSAULT WEAPON IN THE STATE, THE PERSON IS NOT
22 REQUIRED TO PAY THE TAX AGAIN WHEN THE PERSON USES THAT ASSAULT WEAPON
23 IN THE STATE.

24 11-1B-04.

25 THE ASSAULT WEAPON TAX RATE IS 10% OF THE TAXABLE PRICE OF THE
26 ASSAULT WEAPON.

27 11-1B-05.

28 (A) THE PROVISIONS OF § 11-105 OF THIS TITLE DO NOT APPLY TO THE
29 ASSAULT WEAPON TAX.

30 (B) A PERSON WHO TIMELY FILES AN ASSAULT WEAPON TAX RETURN IS
31 ALLOWED, FOR THE EXPENSE OF COLLECTING AND PAYING THE TAX, A CREDIT
32 EQUAL TO 0.5% OF THE GROSS AMOUNT OF ASSAULT WEAPON TAX THAT THE PERSON
33 IS TO PAY TO THE COMPTROLLER.

1 11-501.

2 (C) (1) A BUYER WHO FAILS TO PAY TO THE VENDOR THE ASSAULT WEAPON
3 TAX ON A PURCHASE OR USE SUBJECT TO THE TAX AS REQUIRED UNDER § 11-403 OF
4 THIS TITLE SHALL COMPLETE AND FILE WITH THE COMPTROLLER AN ASSAULT
5 WEAPON TAX RETURN ON OR BEFORE THE 21ST DAY OF THE MONTH THAT FOLLOWS
6 THE MONTH IN WHICH THE BUYER MAKES THAT PURCHASE OR USE.

7 (2) A RETURN FILED BY A BUYER UNDER THIS SUBSECTION SHALL
8 STATE FOR THE PERIOD THAT THE RETURN COVERS:

9 (I) THE TOTAL VALUE OF THE ASSAULT WEAPON THAT IS SUBJECT
10 TO THE ASSAULT WEAPON TAX; AND

11 (II) THE ASSAULT WEAPON TAX DUE.

12 11-502.

13 (D) (1) EACH ASSAULT WEAPON DEALER SHALL COMPLETE AND FILE WITH
14 THE COMPTROLLER AN ASSAULT WEAPON TAX RETURN ON OR BEFORE THE 21ST
15 DAY OF THE MONTH THAT FOLLOWS THE MONTH IN WHICH THE DEALER MAKES A
16 RETAIL SALE OR SALE FOR USE OF AN ASSAULT WEAPON.

17 (2) A RETURN FILED BY AN ASSAULT WEAPON DEALER UNDER THIS
18 SUBSECTION SHALL STATE FOR THE PERIOD THAT THE RETURN COVERS:

19 (I) THE GROSS PROCEEDS OF THE VENDOR FROM THE SALE OF
20 ASSAULT WEAPONS SOLD BY THE DEALER; AND

21 (II) THE ASSAULT WEAPON TAX DUE.

22 SECTION 2. AND BE IT FURTHER ENACTED, That the Secretary of State
23 Police shall assess the impact on the sale of assault weapons in the State of the
24 assault weapon tax imposed under this Act. On or before December 31, 2005, the
25 Secretary shall submit a report to the Governor and, subject to § 2-1246 of the State
26 Government Article, the President of the Senate and the Speaker of the House of
27 Delegates regarding the Secretary's findings.

28 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
29 July 1, 2004.